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'Hate Crimes' Laws: An Assault on Freedom

Revised 9/28/2005
 By Robert H. Knight

Although well intentioned, "hate-crime" laws are seriously flawed.

"Hate crime" laws pose a danger to civil liberties in three ways:

- They pave the way for suppression of the freedoms of speech, association and religion.
- They violate the concept of equal protection under the law.
- They introduce the un-American concept of "thought crime," in which someone's actions are "more" illegal based on their thoughts or beliefs.

A grandmother walking down the street should have at least as much protection under the law as someone who is leaving a "gay" bar. But under "hate crimes" laws that include "sexual orientation," the same assault would be punished with greater penalties if the victim were perceived as homosexual.

Per capita, the most vulnerable class of crime victims is young, black men who are assaulted and murdered by other young, black men.¹ But "hate crimes" laws divide people into racial and other categories. The drive for "hate crime" laws diverts attention from the unfolding tragedy in our nation's cities.

There is no evidence that victims of "hate crimes" are receiving any less protection than victims of other crimes. To suggest otherwise insults the men and women of the nation's law enforcement community.

We deplore any act of violence against innocent victims (including homosexuals), but we strongly oppose as unjust and dangerous the entire concept of "hate crimes" legislation.

Such laws:

- violate the concept of equal protection under the law by designating special classes of victims, who get a higher level of government protection than others victimized by similar crimes.
- politicize criminal law, leading to pressure on police and prosecutors to devote more of their limited resources to some cases, at the expense of other crime victims' cases.
- vastly expand the power and jurisdiction of the federal government to intervene in local law enforcement matters, once a crime is called a "hate crime."
- have a chilling effect on free speech by making unpopular ideas a basis for harsher treatment in criminal proceedings. More than half of the so-called "hate crimes" in the last U.S. Justice Department report were categorized as "intimidation" or "simple assault," which do not necessarily involve anything more than words.² In terms of the proposed national hate crimes bill, this makes name-calling literally a federal case.
- confuse law enforcers, because the definition of what constitutes a "hate crime" is clear in some instances but unclear in others. This burdens prosecutors and opens up endless opportunities for defense attorneys to invoke technicalities.
- are not necessary. There is no evidence to substantiate the claim that "hate crime" victims are receiving less

justice than other crime victims.

Homosexual activists often exaggerate the incidence of "hate crimes," which make up less than 1 percent of all crimes. Over the past several years, even with more law enforcement agencies reporting, the number of "hate crimes" based on "sexual orientation" has dropped.

In 2003, Americans were victimized by approximately 11 million "non-hate" crimes such as muggings, beatings, murders and property crime, such as burglaries, car theft and vandalism. Nearly 1.4 million of the crimes were classified as "violent crimes."

By contrast, there were 7,489 "hate crime" incidents, of which 1,239 were attributed to "sexual orientation" bias. That's a drop of five from the 2002 total of 1,244, and down 154 from 1,393 in 2001.³

Meanwhile, homosexual activist groups and law enforcement agencies tracking "gay-on-gay" domestic violence reported 6,523 cases in 2003, up 13 percent from 5,718 in 2002.⁴ People involved in homosexual behavior are astronomically more likely to be assaulted by another homosexual than to become the victim of a "hate crime."

More than 90,000 Non-"Hate Crime" Rapes

What's more, the "hate crime" concept is profoundly subjective. According to FBI statistics,⁵ five forcible rapes in 2003 were classified as "hate crimes." Overall, 93,433 forcible rapes were reported in 2003, which means the other 93,428 rapes were not "hate crimes."

Also in 2003, some 16,503 criminal homicides were reported, of which 14 were classified as "hate crimes." Six were said to be based on "sexual orientation," and five were said to be based on racial bias.

From Crime to Speech

Liberal activists increasingly invoke such phrases as "hostile speech" and a "climate of violence" to describe pro-family opinion on homosexual issues. The net effect is to reclassify legitimate opinion and free speech as "hate speech" that can be censored.

Here's Matt Foreman, executive director of the National Gay and Lesbian Task Force, in a press release blaming conservative Christians for what Foreman claims is a "spike" in "hate crimes" against homosexuals in late 2003 and early 2004:

The leaders of America's anti-gay industry are directly responsible for the continuing surge in hate violence against lesbian, gay, bisexual and transgender (LGBT) people. ... The right went into demonic, anti-gay hyperdrive following the Supreme Court's Lawrence v. Texas decision in July of 2003. Since then, church pews have been awash in ugly, anti-gay rhetoric and fear-mongering. ... **The literal blood of thousands of gay people physically wounded by hatred during 2004** is on the hands of Jerry Falwell, James Dobson, Tony Perkins and so many others who spew hate for partisan gain and personal enrichment.⁵ [Emphasis added.]

According to a study of the National Coalition of Anti-Violence Programs, which Mr. Foreman cites to document his charges, 744 incidents of physical violence against homosexuals were recorded in 2004. While any attack is deplorable, the facts don't match Mr. Foreman's rhetoric. The three categories that comprise physical attack - murder, assault and attempted assault, and rape/sexual assault, actually dropped in 2004 by 7 percent. Physical assault and simple assault combined dropped by 8 percent in 2004.⁶

Meanwhile, "hate crime" laws are being used to silence people who publicly oppose homosexuality.

For example:

- In Philadelphia, 11 Christians were arrested and jailed overnight in 2004 for singing and preaching in a public park at a homosexual street festival. Five of them were bound over and charged with five felonies and three misdemeanors, totaling a possible 47 years in jail. These charges, based on Pennsylvania's "hate crimes" law,

hung over them for months until a judge finally dismissed them.⁷

- In Canada, a newspaper publisher and a man who placed a newspaper ad faced jail and were fined \$4,500 each, merely for running an ad containing references to several Bible verses regarding homosexuality.⁸
- A pastor in New York saw his billboard with a Bible verse on it taken down under pressure from city officials, who cited "hate crime" rhetoric.⁹
- The San Francisco Board of Supervisors officially approved a resolution urging local media to decline to run advertisements by pro-family groups that offered hope for change to homosexuals. A liberal court then winked at this egregious violation of the First Amendment.¹⁰

As the definition of "hate crimes" expands, practitioners of traditional religion and those who support policies favoring the traditional family increasingly will face legal sanctions.

In Holland, it is now "illegal for any employer and for any provider of goods or services, to distinguish between married and unmarried couples."¹¹

Will recognition of marriage someday be a "hate crime" in America? Yes, if "hate crime" laws continue to be enacted by well-meaning but misinformed legislators.

The proper response to "hate crimes" is to enforce the law impartially and firmly. Every citizen deserves equal protection under the law.

- [Robert H. Knight](#) is Director of the Culture and Family Institute, an affiliate of Concerned Women for America. Kenneth L. Ervin, II assisted with the original article on which this is based.

End Notes

1. Federal Bureau of Investigation, U.S. Justice Department, *Crime in the United States 2003*, http://www.fbi.gov/ucr/cius_03/pdf/03sec2.pdf. Blacks comprised 48.5 percent of all homicide victims and 51.3 percent of offenders in the United States in 2003, even though blacks comprise 13 percent of the population. More than 92 percent of the suspects in the murders of blacks were also black. Among whites, 84.7 percent of the cases involved white-on-white homicide.
2. Federal Bureau of Investigation, U.S. Justice Department, *Crime in the United States 2003*, at http://www.fbi.gov/ucr/cius_03/pdf/03sec2.pdf.
3. Ibid. and telephone call from author on September 23, 2005, to the FBI Criminal Justice Information Services Division.
4. *Lesbian, Gay, Bisexual and Transgender Domestic Violence: 2003 Supplement. An Update from the National Coalition of Anti-Violence Programs*, http://www.ncavp.org/common/document_files/Reports/2003NCAVPDVRpt.pdf.
5. "Task Force Calls Rise in Anti-Gay Crime a Product of America's Anti-Gay Industry," Statement from Matt Foreman, Executive Director, National Gay and Lesbian Task Force, April 26, 2005, <http://www.thetaskforce.org/media/release.cfm?releaseID=815>.
6. "Anti-LGBT Violence in 2004" National Coalition of Anti-Violence Programs, September 26, 2005, p. 24, http://www.ncavp.org/common/document_files/Reports/2004NationalHV%20Report.pdf.
7. Jim Remsen, "Protesters' Arrests Bring Move to Change Pa. Hate-Crimes Law," *The Philadelphia Inquirer*, February 13, 2005, p. B-1.
8. Julie Foster, "Bible on Trial: Rebellion brewing against Canada's pro-'gay' ruling," *WorldNetDaily*, February 6, 2000, http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=17397.
9. Rod Dreher, "A Most Hateful Way to Stifle Free Speech," *The New York Post*, March 12, 2000, p. 20.
10. Rachel Gordon, "S.F. Supervisors," *The San Francisco Examiner*, October 20, 1998, p. A-6. The San Francisco Board of Supervisors Meeting Agenda for October 19, 1999, also lists the resolution (No. 873-98) as adopted. The meeting agenda is available at <http://www.ci.sf.ca.us/bdsupvrs/archive/m101998.htm> (scroll down to item #981715).
11. Discussion of the Equal Treatment Act of 1994 in K. Waaldijk, "The Law of Small Change: How the Road to Same-Sex Marriage Got Paved in the Netherlands," a paper presented to the Conference on National, European and International Law at King's College, University of London, July 1-3, 1999, pp. 3-4.

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